

NTSB Order No. EA-3740

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD  
at its office in Washington, D.C.  
on the 19th day of November, 1992

Docket SE-10433

violation of section 61.15 of the Federal Aviation Regulations (FAR), 14 C.F.R. Part 61.<sup>2</sup>

At the hearing, the law judge ruled affirmatively on a motion by the Administrator to limit the hearing to the issue of sanction due to respondent's prior guilty plea in the U.S. District Court for the Southern District of Florida to the portion of an indictment charging him with conspiracy to violate 21 U.S.C. § 959--to knowingly and intentionally possess marijuana aboard a U.S. aircraft with intent to distribute. The Administrator's complaint sought a revocation, a sanction clearly in accord with Board precedent. "In appeals arising under Section 61.15 we have drawn a distinction, for purposes of determining . . . sanction between those instances where the respondent's offense involved the operation of an aircraft, a circumstance we have ruled justifies revocation, and those in which the offense was unrelated to the operation of an aircraft, and thus a period of suspension was deemed the proper remedy." *Administrator v. Pekarcik*, 3 NTSB 2903 (1980).

In addition to various complaints regarding his criminal

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<sup>2</sup>FAR section 61.15 states in relevant part:

"§ 61.15 *Offenses involving alcohol or drugs.*

(a) A conviction for the violation of any Federal or state statute relating to the growing, processing, manufacture, sale disposition, possession, transportation or importation of narcotic drugs, marihuana, or depressant or stimulant drugs or substances is grounds for--

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(2) Suspension or revocation of any certificate or rating issued under this part.

conviction, respondent, in his appeal brief, does raise one legal argument. However, the fact that this revocation action is based on a criminal conviction does not, as respondent suggests, result in double jeopardy, as this proceeding is civil in nature. See, generally, *Administrator v. Franklin*, 3 NTSB 978 (1978) ("the double jeopardy clause only prohibits punishing twice criminally for the same offense, and therefore does not bar both a criminal and a civil sanction"). Respondent has not raised on appeal any factors that may be considered in mitigation of the Administrator's order of revocation or which would warrant a reduction in sanction.

Upon consideration of the briefs of the parties and the entire record, the Board has determined that safety in air commerce or air transportation and the public interest require that the Administrator's order be affirmed in its entirety. We adopt the law judge's findings as our own.

**ACCORDINGLY, IT IS ORDERED THAT:**

1. The respondent's appeal is denied;
2. The Administrator's order and the initial decision are affirmed; and
3. The revocation of the respondent's commercial pilot certificate and any other airman pilot certificate held by him shall begin 30 days from the date of service of this order.<sup>3</sup>

VOGT, Chairman, COUGHLIN, Vice Chairman, LAUBER, HART and HAMMERSCHMIDT, Members of the Board, concurred in the above opinion and order.

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<sup>3</sup>For the purposes of this order, respondent must physically surrender his certificate to an appropriate representative of the FAA pursuant to FAR § 61.19(f).